

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF JUNE 16, 2004**

REGULAR MEETING

9:00 A.M.

JUNE 16, 2004

PRESENT:

COMMISSIONERS:	Jim Bagley, Chairman	A. R. "Tony" Sedano, Alternate
	Paul Biane, Vice Chairman	Gerald Smith
	Bob Colven	Diane Williams
	James V. Curatalo, Alternate	Clifford Young
	Neal Hertzmann, Alternate	

STAFF:

Kathleen Rollings-McDonald, Executive Officer
Clark H. Alsop, Legal Counsel
Samuel Martinez, LAFCO Analyst
Debby Chamberlin, Clerk to the Commission

ABSENT:

COMMISSIONERS:

Dennis Hansberger, Alternate
Richard P. Pearson

REGULAR SESSION - CALL TO ORDER - 9:03 A.M.

Chairman Bagley calls the regular session of the Local Agency Formation Commission to order. Commissioner Sedano leads the flag salute.

Chairman Bagley requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

ADOPTION AND PRESENTATION OF RESOLUTION RECOGNIZING KATHLEEN ROLLINGS-MCDONALD'S 25 YEARS OF SERVICE

On motion by Chairman Bagley, seconded by Vice Chairman Biane, the Commission unanimously adopts a resolution in recognition of Executive Officer Kathleen Rollings-McDonald's 25 years of service with LAFCO. Chairman Bagley reads the resolution and then presents it to her.

APPROVAL OF MINUTES FOR REGULAR MEETING OF MAY 19, 2004

Chairman Bagley calls for any corrections, additions, or deletions to the minutes. There are none. Commissioner Sedano moves approval of the minutes as presented, seconded by Commissioner Colven. Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Sedano, Smith, Williams, Young. Noes: None. Abstain: None. Absent: Pearson (Sedano voting in his stead).

CONSENT ITEMS

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LAFCO considers the items listed under its consent calendar, which Chairman Bagley states consists of: (1) approval of the Executive Officer's expense report; and (2) approval of payments as reconciled for the month of May 2004 and noting cash receipts. A Visa Justification for the Executive Officer's expense report, and a staff report for the reconciled payments, have been prepared and a copy of each is on file in the LAFCO office and is made a part of the record by its reference herein. Staff recommendation is that the Commission approve the Executive Officer's expense report and payments as reconciled for the month of May and note the cash receipts.

Chairman Bagley asks whether there is anyone present wishing to discuss the consent calendar items. There is no one.

Commissioner Young moves approval of the consent calendar, seconded by Commissioner Sedano. Chairman Bagley calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Biane, Colven, Sedano, Smith, Williams, Young. Noes: None. Abstain: None. Absent: Pearson (Sedano voting in his stead).

CONTINUED ITEM:

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2922; AND (2) LAFCO 2922 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR WEST VALLEY WATER DISTRICT (FORMERLY WEST SAN BERNARDINO COUNTY WATER DISTRICT) - APPROVE STAFF RECOMMENDATION

LAFCO conducts a hearing to consider a service review and sphere of influence update for the West Valley Water District (hereinafter referred to as "the District"). This hearing was continued from April 21, 2004, and notice of the original hearing was advertised as required by law through publication in The Sun and the Rialto Record, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald says this proposal was initiated by the Commission on January 15, 2003, and is a routine, non-controversial service review and sphere of influence update for the District. She notes that Attachment #1 to the staff report contains maps that identify the boundaries and the proposed sphere for the District; that Attachment #2 is an outline of what a county water district is; and that Attachment #3 is a Summary District Profile Sheet and Survey Response from the District. She says that a model report for the service review was prepared for the District by the firm of Cotton/Bridges/Associates, who first worked on the preparation of a report to respond to the service review factors as they were affected by a possible detachment of territory from the District related to the Coyote Canyon issue. She says that once that application was withdrawn, the report was then modified to address only the mandatory sphere update and service review requirements.

Ms. McDonald reports that the staff proposed, and the District concurred with, a minor change to its sphere to include the area of its administrative offices and facilities, generally along Baseline Road, and to include the parcels southerly of the I-10 Freeway, generally between Linden and Locust Avenues. She says the District's sphere should also be amended to include the territory of the recently completed County Boundary Exchange in the Agua Mansa area. She says no other changes are proposed. Ms. McDonald summarizes the major points of consideration provided by the District in its survey response, which are outlined in the staff report.

Ms. McDonald states the staff recommendation is that the Commission: (1) determine that LAFCO 2922 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five days; (2) make the findings related to a service review required by Government Code Section 56430 and determine that the sphere of influence for the District should include: a) the parcels upon which the District's administrative facilities are located (Assessor Parcel Numbers 0128-021-14, -29 and -33); b) the

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territory within the County Boundary Exchange effective December 2003; and c) the parcels southerly of the I-10 Freeway, generally between Linden and Locust Avenues; and d) that the balance of the existing sphere of influence boundaries should be affirmed; and (3) adopt LAFCO Resolution No. 2821 setting forth the Commission's findings and determinations. She says a representative of the District is present if there are any questions.

Commissioner Sedano states that the District did an outstanding job on its service review report.

Chairman Bagley opens the hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Sedano moves approval of staff recommendation, seconded by Commissioner Colven. Chairman Bagley calls for any objections to the motion. There being none, the voice vote is as follows: Ayes: Bagley, Biane, Colven, Sedano, Smith, Williams, Young. Noes: None. Abstain: None. Absent: Pearson (Sedano voting in his stead).

DISCUSSION ITEMS

CONSIDERATION OF EXEMPTION FROM GOVERNMENT CODE SECTION 56133 FOR LAFCO SC#226 - AGREEMENT BETWEEN SAN BERNARDINO COUNTY CONSOLIDATED FIRE DISTRICT (COUNTY FIRE) AND HESPERIA FIRE PROTECTION DISTRICT FOR FIRE PROTECTION AND EMERGENCY MEDICAL SERVICES BY COUNTY FIRE - DETERMINE THAT COMMISSION REMAINS FINDER OF FACT AND CONFIRM THAT LAFCO SC#226 COMPLIES WITH EXEMPTION

LAFCO conducts a public hearing to consider an exemption from the provisions of Government Code Section 56133 for LAFCO SC#226-Agreement between San Bernardino County Consolidated Fire District (County Fire) and Hesperia Fire Protection District for Fire Protection and Emergency Medical Services by County Fire. Notice of this hearing was advertised as required by law through publication in The Sun and the Daily Press, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states that on April 21, County Fire submitted a request that the Commission confirm that the agreement between the County, on behalf of the San Bernardino County Consolidated Fire District (County Service Area 70) and County Service Area 38, and the Hesperia Fire Protection District is exempt from the provisions of Government Code Section 56133. She reports that in the interim, Chief Peter Hills requested withdrawal of his request, responding to a County Counsel opinion that the contract was exempt under subsection (e) and that no confirmation was necessary by the Commission. Ms. McDonald says that staff disagrees with County Counsel's opinion, pointing out that the Commission has reviewed and confirmed the exemption of contracts on numerous occasions. She says staff acknowledges the ambiguities within that code section and says the CALAFCO Legislative Committee has established a subcommittee, of which she and Legal Counsel Clark Alsop are a part, to address those issues and redraft that section. She says it is staff's position that the Commission is the finder of fact for the determinations related to exemptions and that the staff recommendation is that the Commission determine the contract is exempt from review based on the four findings outlined in the staff report. She explains, however, that if the Commission accepts County Counsel's position that no independent review of these findings is required, then the Commission can accept the withdrawal request submitted by Chief Hills.

Commissioner Biane says he is confused, adding that both alternatives get them to the same point. He says that Section 56133(e) says the Commission does not have to review this contract, but he says he does not read in that section that the Commission is the finder of fact. Ms. McDonald responds that is one point of ambiguity. She says the section indicates that a contract that meets these provisions is exempt, but it does not say who should determine that it meets that criteria. She reiterates that on

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several occasions, the Commission has taken an action to confirm that a contract meets this criteria and that no further review is needed. She says staff believes that the Commission should make those findings and believes that is what was envisioned when the Code Section was expanded three years ago to include this exemption. Commissioner Young asks to hear from Chief Hills.

Chief Peter Hills says the question is, as Ms. McDonald indicated, who has the ultimate authority to make the finding of exemption. He reports that the direction to him as County Fire Chief from the County Administrative Office and County Counsel's Office was clear and that their opinion is that subsection (e) of that section says this contract is exempt and, therefore, needs no review by the Commission. He says the language in that section may be somewhat undefined as to who ultimately has the responsibility to make that exemption finding, so that is a legal question for the Commission and County Counsel to decide. He adds that as Commissioner Biane pointed out, the issue gets resolved whatever determination is made. But he points out that if his request for withdrawal is upheld, then there will still be the necessity for a legal discussion about who makes the ultimate finding of exemption as it affects this issue and other service contracts that will come before the Commission in the future.

Commissioner Young asks Chief Hills to put aside his direction from the CAO and County Counsel and to discuss what his view of this issue is as Fire Chief. Chief Hills discusses that as Ms. McDonald indicated, a number of service contracts have come before the Commission, including those issues related to the Donut Hole and a fire protection contract between the County and City of Redlands. He says LAFCO indicated a request for exemption had to come before the Commission for review, which is why he originally submitted this request, and says he was confident it would be found exempt and require no additional action by the Commission.

Commissioner Sedano states that he called Ms. McDonald for an explanation of this issue and has now listened to Chief Hills and the other dialogue that has taken place. He says that because of the twenty-five years of experience Ms. McDonald brings to the Commission, he would go along with her first recommendation, unless Mr. Alsop disagrees.

Mr. Alsop says there are two things before the Commission—a request for an exemption determination and a request for a withdrawal. He says if the Commission agrees to the withdrawal, it is making a policy decision that the County, a city or a district does not need to come to the Commission to seek an exemption determination.

Chairman Bagley says his concern is what best serves the public interest. He says he is looking at all the possible scenarios in the future where they could run into problems if they set a policy that the Commission will not review things. He adds this issue needs to be clarified through some process other than what is being considered today.

Commissioner Curatalo discusses that he believes the Commission is the finder of fact and says he agrees with the first staff recommendation. Commissioner Biane discusses that the City of Hesperia and its Council has decided that this contract is the best way to serve its public. However, he says the Commission is being asked to determine whether Hesperia's citizens are best served or not, when the City is closer to the issue than the Commission.

Ms. McDonald responds that the Commission's historical position has been that agencies must request that the Commission confirm an exemption. She says that policy gives the Commission a means of protection and review; that the Commission does not have the ability to indicate any terms and conditions but can only indicate whether or not a contract is required to be reviewed under Section 56133 or is exempt. She says that no matter which recommendation is approved, the contract will not be reviewed by the Commission. She says the real question is whether they want to establish a policy that exemptions will not be reviewed in the future.

Commissioner Young says that codes, in terms of public policy, are not necessarily what the Commission has to do. He questions the necessity of review by the Commission on top of the review by the City of Hesperia. Ms. McDonald explains that Section 56133 indicates that a city or district can provide services

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outside its existing boundaries if it first requests and receives LAFCO approval. She notes that there are some restrictions, such as the area must be within the agency's sphere and in anticipation of a future change of organization. Commissioner Young asks why, if a City is satisfied with its review, another layer of government must be put on it. He says he is not satisfied that this needs another review just because the code says so, adding that the code could be antiquated.

Commissioner Hertzmann says he agrees this is confusing, but he says it seems to him that the benefit to having the Commission review the issue is that it is an independent, objective body that can determine whether or not the requirements for an exemption apply. He says that rather than each agency determining it is exempt, LAFCO would agree it does not have to review a contract and they would end up at the same point most of the time. Ms. McDonald reiterates that there are some discussions to change this section to remove the ambiguities and clarify when a request for exemption has to come before the Commission.

Chief Hills asks what the process would be if an agency requests an exemption and the Commission finds that the contract does not comply with the provisions for an exemption. Ms. McDonald responds that the contract would then be reviewed against the criteria of Section 56133. She explains that the extension of service could not be authorized in the case being considered today because the area is not within the sphere of influence of the contracting agencies (County Service Areas 38 and 70).

Commissioner Biane discusses that if someone had an opposing view about the contract approved by the City of Hesperia, then it would be appropriate for them to come to the Commission for a determination. But since there is no opposition, he asks why another layer of government needs to approve this when there is language that exempts it and the City wants to move forward. Ms. McDonald responds that this relates back to the policy of the Commission and the issue of setting a precedent. She reports that the policy can be changed to direct that the Executive Officer review these requests. She says if there is no controversy and the exemption findings can clearly be made, then the Executive Officer can be authorized to exempt the contract, and it would not come before the Commission. She says this contract today would meet that criteria, but says the issue is that there may be the "off chance" when those findings of exemption could not be made.

Commissioner Curatalo discusses that, while he is not a big proponent of centralized government, one of the purposes of LAFCO is to assure sensible growth and services for government. He says that with the composition on the Commission, the County, cities and special districts are represented; and he thinks it makes more sense and assures sensible growth and services if the Commission is the finder of facts in determining questions like this.

Commissioner Young says he understands what Commissioner Curatalo is saying, but says he disagrees from a policy standpoint. He asks why they should review something that has already been reviewed by the City of Hesperia and no conflicts are involved with any other local governments in the area. He says that even a review by staff is another layer that is not necessarily needed and says he would not vote for any other level of review that is not necessary.

Commissioner Colven says he supports the current policy. He says that LAFCO is a "clearinghouse" in the sense that, as Commissioner Curatalo mentioned, there is a disparate group of representation on this Commission to review issues. He says LAFCO's final review insures the validity of what the City intends to do and says the Commission is acting as a "clearinghouse" with this added level of government. Commissioner Young comments that a clearinghouse pushes things through and does not approve things.

Commissioner Smith comments that in any business, there are a lot of different reviews and hoops that have to be jumped through to reach a goal. He says the Commission is trying to keep one door open so that if it wants to question something and review it further, it can do so in the future. Commissioner Hertzmann says he likes the idea of the Executive Officer reviewing a request for an exemption to see if it meets the criteria. He says if there is a dispute, then the issue can be brought to the Commission. Commissioner Biane says that Commissioners Curatalo and Hertzmann have both brought up good

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points. He says the Commission is here to review issues, but he says if the contract is not being questioned and all parties agree that the contract is in the best interest of everyone, then he agrees the issue should not have to come before the Commission.

Ms. McDonald discusses that the difficulties lie in the exemption sections and she says the balance of the language in the section is very clear. She reports that one of the proposed revisions by the CALAFCO Legislative Committee is that agencies empowered to provide like services are exempt from LAFCO review with a finding by the Executive Officer.

Chairman Bagley says this section needs to be reviewed and that Commission needs to receive guidance on this issue. Ms. McDonald says this LAFCO has a lot of experience with this section and that she and Mr. Alsop have participated in discussions about the need for it to be rewritten. Mr. Alsop adds that CALAFCO has a legislator who introduces cleanup bills for LAFCO legislation and he says this proposal is to be added into one of those cleanup bills for the next legislative year.

Chairman Bagley opens the public hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Williams comments that her biggest concern is how this action today will set a precedent and affect future policy.

Commissioner Sedano moves approval of staff recommendation (a) to determine that the Commission remains the finder of fact for issues outlined within the exemption provisions of Government Code Section 56133 (e) and confirm that LAFCO SC#226 complies with the exemption listed within that section and, therefore, does not require Commission approval to proceed. Commissioner Colven seconds the motion.

Chairman Bagley says he supports the motion because of the policy issue. He says he is not comfortable changing the policy immediately because of the unintended consequences of changing policies that sometimes are problematic. However, he says if there is a review of this section by CALAFCO and there are changes to clarify that section, then he would be more comfortable.

Chairman Bagley calls for further discussion. There being none, he calls for a voice vote on the motion and it is as follows: Ayes: Bagley, Colven, Sedano, Williams. Noes: Biane, Young. Abstain: Smith. Absent: Pearson (Sedano voting in his stead).

Commissioner Williams asks about the issue of having the Executive Officer review requests for exemption. Ms. McDonald says she currently is authorized to administratively review and approve service contracts where there is a health and safety concern. She says the Commission may want to direct that a policy come back authorizing the Executive Officer to review and approve exemption requests, unless there are objections or concerns about the findings that must be made.

Ms. McDonald introduces her two sons Michael and Chris, and her mother Mrs. Rollings who are in the audience today.

**CONSIDERATION OF EXEMPTION FROM GOVERNMENT CODE SECTION 56133 FOR LAFCO
SC#227 - ASSUMPTION OF SERVICE BY CITY OF BIG BEAR LAKE DEPARTMENT OF WATER
AND POWER FOR MOUNTAIN PIONEER MUTUAL WATER COMPANY - APPROVE STAFF
RECOMMENDATION**

LAFCO conducts a public hearing to consider an exemption from the provisions of Government Code Section 56133 for LAFCO SC#227 - Assumption of Service by the City of Big Bear Lake Department of Water and Power for Mountain Pioneer Mutual Water Company. Notice of this hearing was advertised as required by law through publication in The Sun and the Big Bear Grizzly, newspapers of general

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circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments and those individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald reports that the Mountain Pioneer Mutual Water Company (hereinafter referred to as the "Water Company") contacted staff about the process for receiving service from the City of Big Bear Lake's Department of Water and Power (hereinafter referred to as the "DWP"). She explains that the Water Company provided domestic water service to 18 lots in the eastern Rimforest area and that during the Old Fire, 90% of the Water Company's facilities were destroyed. She says that the two homes remaining in the Company's service area need water service and that the Rimforest division of the City of Big Bear Lake DWP, which is adjacent to the Water Company, has indicated it can provide that service. She points out that the Commission cannot authorize a service contract unless the area is within the sphere of influence of the contracting agency. She reports that there is an exemption in Government Code Section 56133, Subsection (c), for situations where there is a health and safety concern, such as in this case. She says staff believes this exemption applies, based on the findings listed in the staff report, and, therefore, recommends that the Commission determine that LAFCO SC#227 is exempt from the provisions of Government Code Section 56133, as authorized by Subsection (c).

Chairman Bagley opens the hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Biane moves approval of staff recommendation, seconded by Commissioner Colven. Chairman Bagley calls for discussion on the motion. There being none, the voice vote is as follows: Ayes: Bagley, Biane, Colven, Sedano, Smith, Williams, Young. Noes: None. Abstain: None. Absent: Pearson (Sedano voting in his stead).

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2957; AND (2) LAFCO 2957 - REORGANIZATION TO INCLUDE CITY OF UPLAND ANNEXATION NO. 58 AND DETACHMENT FROM MONTE VISTA FIRE PROTECTION DISTRICT (NINTH STREET ISLAND) - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a proposed annexation to the City of Upland of an unincorporated island of territory, commonly known as the Ninth Street Island, with a concurrent detachment from the Monte Vista Fire Protection District. The reorganization area includes a total of 43.44+/- acres, generally located north of the Atchison, Topeka and Santa Fe Railroad line, south of Ninth Street (including parcels immediately adjacent to the north of Ninth Street), between Central Avenue on the west and Benson Avenue on the east. Notice of this hearing has been advertised as required by law through publication in The Sun and the Inland Valley Daily Bulletin, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments, those individuals requesting mailed notice, and landowners and registered voters pursuant to State law and Commission policy.

LAFCO Analyst Samuel Martinez presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Mr. Martinez states this proposal was initiated by the City of Upland (hereinafter referred to as "the City") under the special island annexation procedures. He says it is staff's view that this proposal is a ministerial action for the Commission since Government Code Sections 56375 and 56375.3 require the Commission to approve the annexation of island territory if certain findings are made. He shows photographs of the area on the overhead display, pointing out that there are single-family residences along Ninth Street, with some scattered commercial uses in the area. He reports that the area is totally built out and says the City has pre-zoned the area Highway Commercial and Light Industrial, which land uses are generally compatible with the current County designation of Community Industrial. He notes that the zoning designations must stay in effect for two years, unless specific actions are taken by the City Council.

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Mr. Martinez discusses the service delivery, as summarized in the staff report and outlined in the City's Plan for Service which is attached to the staff report. He reports that the sewer rates for the existing commercial and residential users will be reduced by about one-third and that the monthly charges for water service, which is currently provided by the City to the area, will be cut by one-half. He says fire protection and paramedic services are provided by the Montclair Fire Department, through a contract with the Monte Vista Fire Protection District (hereinafter referred to as "the District"), and will be replaced by the City of Upland's Fire Department. He notes that concern has been expressed by the County Fire Department, on behalf of County Service Area 70 and the District, regarding the loss of revenue that will occur with the detachment of the District. He says law enforcement will shift from the County Sheriff's Department to the City and that the only financial effect to the existing and future business owners will be the imposition of the City's business license and sign registration requirements. He points out that the Plan for Services indicates that the extension of the City's services will maintain and even exceed current service levels provided through the County. Mr. Martinez says that the Commission's Environmental Consultant, Tom Dodson and Associates, has indicated that this island annexation is statutorily exempt from the requirements of CEQA based on the finding that the Commission's approval of this proposal is a ministerial action.

Mr. Martinez states that the mandatory island annexation findings outlined in the staff report can be easily made as follows: (1) the area is 44 acres and consists of the entire island; (2) the area is surrounded by the City of Upland and an adjacent city (City of Montclair) and is within the City of Upland's sphere of influence; (3) the area is substantially developed, based on the availability of public services, the presence of public improvements in the area and physical improvements on many, if not most, of the properties; (4) there is no prime agricultural land within the area; and (5) the area has benefited and will benefit from the availability of municipal services from the City of Upland. He says that based on these findings, the Commission is required to approve this annexation and waive the protest proceedings. He says the staff recommendation is outlined on page one of the staff report and includes that the Commission: (1) adopt the statutory exemption that has been recommended for this proposal and direct the Clerk to file a Notice of Exemption within five (5) working days; (2) approve LAFCO 2957 as an island annexation, as defined in Government Section 56375.3, with concurrent detachment from the Monte Vista Fire Protection District; (3) waive the protest proceedings; and (4) adopt LAFCO Resolution No. 2822 setting forth the Commission's findings and determinations.

Commissioner Biane moves approval of staff recommendation, seconded by Commissioner Young. Chairman Bagley says he has one request to speak.

Commissioner Sedano compliments Mr. Martinez on his first presentation, stating he did an excellent job.

Commissioner Hertzmann refers to the loss of response time mentioned on page four of the City's Plan for Services and asks whether that is an acceptable loss of time.

Executive Officer Kathleen Rollings-McDonald states she does not believe that is an overall concern since both agencies share mutual aid.

Chairman Bagley opens the public hearing and calls on Jeff Bloom, the City's Director of Community Development.

In response to inquiry of Commissioner Colven, Mr. Bloom points out on the displayed map the location of Upland Fire Station No. 3 at Foothill Boulevard and Benson Avenue. He points out the City of Montclair's main station, which is located below the railroad tracks at Monte Vista Avenue and 8th Street (Arrow Highway). Mr. Bloom explains that he believes Chief Turner's concern was the accuracy of the City of Upland's absolute statement that its response time to the area would be faster. He says there will be mutual aid and says he understands that Montclair has not indicated that there would be any deterioration in service. He reports that the City has a voluntary paramedic program that will be introduced in this area and says the City just opened Fire Station No. 4, which will help "take the load off" in the northeastern part of the City. He states there might be a one or two minute change in response times, up or down, but says he does not think that will be a concern.

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Commissioner Curatalo comments that there is automatic mutual aid in this area, so he says no time will pass where someone would have to call the next unit since it is automatically done.

Chairman Bagley asks if there is anyone else wishing to speak on this item or further discussion by the Commission. There being none, he calls for a voice vote on the motion to approve staff recommendation and it is as follows: Ayes: Bagley, Biane, Colven, Sedano, Smith, Williams, Young. Noes: None. Abstain: None. Absent: Pearson (Sedano voting in his stead).

CONSIDERATION OF: (1) REVIEW OF NEGATIVE DECLARATION WITH MITIGATION MEASURES PREPARED BY CITY OF MONTCLAIR FOR CASE NO. 2003-39, ANNEXATION NO. 23, AS CEQA RESPONSIBLE AGENCY FOR LAFCO 2960; AND (2) LAFCO 2960 - REORGANIZATION TO INCLUDE CITY OF MONTCLAIR ANNEXATION NO. 23 AND DETACHMENT FROM MONTE VISTA FIRE PROTECTION DISTRICT - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a proposal to annex approximately 22.28+/- acres to the City of Montclair (hereinafter referred to as "the City"), with concurrent detachment of the area from the Monte Vista Fire Protection District (hereinafter referred to as "the District"). The reorganization area is generally located north and south of Howard Street, generally west of Fremont Avenue, within the City's southern sphere of influence. Notice of this hearing has been advertised as required by law through publication in The Sun and the Inland Valley Daily Bulletin, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments, those individuals requesting mailed notice, and landowners and registered voters pursuant to State law and Commission policy.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office is made a part of the record by its reference herein. Ms. McDonald reports that the existing land uses within the area are predominately residential in nature and that there are a number of duplexes north of Howard Street which were built in the 1960's. She says the City has processed Tentative Tract 16697 for nine lots for single-family residential uses on property located at 11204 Fremont Avenue. She says the County's General Plan land use designation for the area is low density residential and medium density residential; that the City's General Plan land use designation is the same as the County's; and that the City has pre-zoned the area for single-family residential uses for approximately 17.45 acres and two-family residential uses for approximately 5 acres. She notes that the City took to heart the Commission's position that that the City should develop logical and efficient boundaries when submitting a proposal. She reports that when the project was submitted, the City looked to areas to the north and did an excellent job of filling in peninsulas created by previous annexations and creating a more logical and efficient boundary configuration. She says the City is to be commended for working with the landowners in the proposed annexation area regarding land use designations and service concerns.

Ms. McDonald discusses the service delivery, as summarized in the staff report and outlined in the City's Plan for Service which is attached to the staff report. She notes that some of the duplexes receive sewer service through out-of-agency service agreements. She says fire protection is provided by the City, through a contract with the District, and says concern has been expressed by the County Fire Department regarding the loss of revenues due to this detachment. She says the City's response to this concern, which is outlined in its letter of April 8, 2004, attached to the staff report, is that the area is primarily developed and will not need wildland service delivery; that hazardous materials are a relatively minor concern; and that the City Fire Department currently provides fire protection in this area. She says law enforcement responsibilities will shift from the County Sheriff to the City. She says the financial effect to landowners and residents includes a 3.89% utility tax on utility services and a \$2.35 per month stand-by charge for developed properties that have a direct access to City sewers but which are not connected. She says the Commission's Environmental Consultant Tom Dodson has reviewed the City's environmental assessment and Mitigative Negative Declaration for its pre-zoning for 22.45 acres, annexation of the pre-zone territory, and Tentative Tract 16697 for 2.39 acres and determined that the documents are adequate for the Commission's use as a CEQA responsible agency. She says the

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necessary actions to be taken related to the environmental review, as well as the findings required by State law and Commission policy, are included in the staff report.

Ms. McDonald states that the staff recommendation is that the Commission: (1) certify that it has reviewed and considered the City's environmental assessment and Mitigative Negative Declaration; take the actions listed in the staff report; and direct the Clerk to file a Notice of Determination within five working days; (2) approve LAFCO 2960 as submitted; and (3) adopt LAFCO Resolution No. 2820 setting forth the Commission's findings, determinations and standard conditions of approval. She states a representative of the City is present if the Commission has any questions.

Chairman Bagley opens the public hearing and calls on those wishing to speak.

Steve Lustro, Montclair's City Planner, thanks Ms. McDonald for her comprehensive and complimentary staff report. He emphasizes that the City has taken seriously the Commission's suggestion made when he was here for a previous annexation related to expanding a proposal's boundaries to try to clean up the City's "jigsaw puzzle" sphere of influence. He reports that this proposal today was expanded from the 2.4 acres proposed for annexation to 22 acres. He says that with future proposals, the City's intent is to try to "square up" irregular boundaries.

Chairman Bagley asks if there is anyone else wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Young moves approval of staff recommendation, seconded by Commissioner Williams. Chairman Bagley calls for any opposition to the motion. There being none, the voice vote on the motion is as follows: Ayes: Bagley, Biane, Colven, Sedano, Smith, Williams, Young. Noes: None. Abstain: None. Absent: Pearson (Sedano voting in his stead).

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2920; AND (2) LAFCO 2920 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR BLOOMINGTON RECREATION AND PARK DISTRICT - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a service review and sphere of influence update for the Bloomington Recreation and Park District (hereinafter referred to as "the District"). Notice of this hearing has been advertised as required by law through publication in The Sun, the Fontana Herald News, and the Rialto Record, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments, and those individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states this proposal was initiated by the Commission on January 15, 2003, and is a routine, non-controversial service review and sphere of influence update for the District. She points out the District's boundaries and sphere on the display map, noting that a small piece of the District along its eastern edge is within the City of Colton's sphere of influence. She reports that this is a Board-governed special district formed under the provisions of Recreation and Park District law; that the Board of Supervisors for San Bernardino County is its governing body; and that administrative support for the District is provided through the County Special Districts Department.

Ms. McDonald says the area currently included within the District's sphere encompasses the District's boundaries northerly of El Rivino Road (Riverside/San Bernardino County line). She points out that the District's sphere is smaller than the boundaries of the District. She summarizes the major points of consideration in the response provided by the Special Districts Department and says the following two changes are recommended, as outlined in the staff report: (1) The District is proposing a minor change to its sphere to include the area within the existing District boundaries southerly of El Rivino Road (Riverside County line); and (2) The District's sphere should be amended to include the territory of the recently

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completed County Boundary Exchange in the Agua Mansa area. Ms. McDonald explains this action will place territory of the District within Riverside County, requiring a follow-up reorganization to clean up the boundaries of the Jurupa Recreation and Park District and the Bloomington Recreation and Park District. She says that reorganization will be important because a Board-governed district must be within a single-county unincorporated area. She says she contacted the County Administrative Office and was told this is still an item to be taken care of. She says the District indicates that no other changes to its sphere are anticipated in the next five years.

Ms. McDonald states that the District's response to the factors and findings required for a service review is attached to, and summarized in, the staff report. She discusses one important factor in this review--the existence of any social or economic communities of interest in the area. She says the community of Bloomington is an unincorporated area with a long history with the Commission and that a chronology of the community's actions related to its desire to move toward incorporation is attached to the staff report. She says those efforts were not successful because the revenue stream in the area does not support incorporation. She says that development pressures have caused discord because those people who want to develop at urban intensities are interested in sewer service, which is only available from the Cities of Fontana or Rialto. She says that through annexations to these Cities, the Park District is detached, which further dwindles the revenue base for the District to provide its services.

She discusses that staff is proposing a possible change in policy so that through annexations to the Cities of Rialto or Fontana, detachment of the District would not be automatic. She says this would allow the District to participate in the increased valuation of properties as they developed, but says the downside would be that over time, the governing body of the District would, at a minimum, change to an appointed board. She says this change in policy should be reviewed with the City representatives so that the District can be maintained, since it is the voice of the Bloomington community. She asks whether the Commission wants to direct staff to pursue this possible change with County and City representatives.

Ms. McDonald says the staff recommendation is listed on pages one and two of the staff report and includes that the Commission: (1) determine that LAFCO 2920 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five working days; (2) make the findings related to a service review and determine that the sphere of influence for the District should: (a) be expanded to include that area currently a part of the District boundary southerly of El Rivino Road; (b) be expanded to include the territory within the County Boundary Exchange effective December 2003; and (c) be confirmed for the balance of the existing sphere of influence boundaries; (3) note the continued exclusion of the District territory within the City of Colton sphere of influence, generally located east of Pepper Avenue, north and south of Slover Avenue; (4) direct staff to work with the Cities of Rialto and Fontana regarding a change in policy toward the detachment of the Bloomington Recreation and Park District upon annexation; and (5) adopt LAFCO Resolution No. 2823 setting forth the Commission's findings and determinations on this issue.

In response to inquiry of Commissioner Colven regarding the continued exclusion of the District territory within the City of Colton's sphere, Ms. McDonald states that through the determination that the District's sphere of influence is smaller than the District's boundaries, the Commission is proposing that the area be removed from the District.

Chairman Bagley opens the public hearing and asks if there is anyone wishing to speak.

Craig Duckworth of the County Special Districts Department, the Regional Manager for the District, states that the Special Districts Department worked with Ms. McDonald on this matter and concurs 100% with the staff recommendation.

Chairman Bagley asks if there is anyone else wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Young moves approval of staff recommendation, seconded by Commissioner Sedano. Chairman Bagley calls for any opposition to the motion. There being none, the voice vote on the motion

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is as follows: Ayes: Bagley, Biane, Colven, Sedano, Smith, Williams, Young. Noes: None. Abstain: None. Absent: Pearson (Sedano voting in his stead).

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2923; AND (2) LAFCO 2923 - SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR CITY OF COLTON - APPROVE STAFF RECOMMENDATION

LAFCO conducts a public hearing to consider a service review and sphere of influence update for the City of Colton (hereinafter referred to as "the City"). Notice of this hearing has been advertised as required by law through publication in The Sun and the Colton Courier, newspapers of general circulation in the area. Individual notice of this hearing was provided to affected and interested agencies, County departments, and those individuals requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald presents the staff report, a copy of which is on file in the LAFCO office and is made a part of the record by its reference herein. Ms. McDonald states this proposal was initiated by the Commission on January 15, 2003, and is a routine, non-controversial service review and sphere update for the City. She notes that attached to the staff report are a map of the City's boundaries and sphere, a summary profile of the services provided by the City and the survey response submitted by the City to the factors required by Government Code Section 56430 for a service review. She states that probably in September, the Commission will consider the annexation of five islands to the City. She summarizes the major points of consideration provided by the City in its survey response, which are outlined in the staff report. She says none of the adjacent or overlaying agencies have identified any concerns with the existing sphere of influence as established for the City.

Ms. McDonald says the staff recommendation is that the Commission: (1) determine that LAFCO 2923 is statutorily exempt from environmental review and direct the Clerk to file a Notice of Exemption within five days; (2) make the findings related to a service review and determine that the existing sphere of influence for the City should be affirmed as presently configured; and (3) adopt LAFCO Resolution No. 2824 setting forth the Commission's findings and determinations on this issue.

Chairman Bagley opens the hearing and asks if there is anyone wishing to speak on this item. There is no one and he closes the hearing.

Commissioner Sedano moves approval of staff recommendation, seconded by Commissioner Young. Chairman Bagley calls for any opposition to the motion. There being none, the voice vote is as follows: Ayes: Bagley, Biane, Colven, Sedano, Smith, Williams, Young. Noes: None. Abstain: None. Absent: Pearson (Sedano voting in his stead).

It is noted that Commissioners Biane and Young leave the hearing at 10:35 a.m.

PENDING LEGISLATION (ORAL REPORT)

Executive Officer Kathleen Rollings-McDonald reports that AB 2067, which would broaden the definition of "consolidation" to allow two districts not formed under the same principal act to be consolidated, is scheduled for hearing on June 23 before the Senate Local Government Committee. She reports that AB 2306, a bill which would restrict the ability of the Commission to condition a proposal on the initiation of another proposal, is going before the Senate Local Government Committee today. She says the bill has been amended to indicate a limitation to the Commission being prohibited from requiring the initiation of islands as a part of its consideration. She says CALAFCO still opposes the bill, even though it has tempered some of the problems identified. She reports that SB 1266, which would increase the island annexation acreage from 75 to 150 acres, is in the Assembly for a third reading and it is anticipated the bill will move forward. She says AB 3077, which is an omnibus bill for CALAFCO this year and contains cleanup provisions and other changes, is scheduled for hearing before the Senate Local Government Committee today.

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EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald announces that the next hearing will be on July 21. The Clerk to the Commission reads the items on the tentative agenda, which include four out-of-agency service agreements, the review and adoption of personnel policies and procedures, and two City of Hesperia reorganizations. Ms. McDonald states that the Commission has been provided this morning with copies of the environmental review documents related to the Oak Hills Community Plan for the consideration of the Hesperia reorganizations. She states that in August, staff will try to wrap up the service reviews for the East Valley and the Commission will consider a small annexation to the City of San Bernardino.

Ms. McDonald reports that information related to the CALAFCO Annual Conference has been provided today, along with information related to nominations for the CALAFCO Executive Board. She asks that anyone interested in running for any of the offices contact Chairman Bagley.

Chairman Bagley asks if anyone is interested in being nominated. Commissioner Smith states he might be interested but says he is awaiting the results of the election for the Special District member position.

Ms. McDonald announces that a mailed ballot election for the Special District member is being conducted. She says nominations are due by June 23 and that ballots will be mailed out June 30 and due back by August 2.

Ms. McDonald reports that she knows of five proposals to be submitted in the near future. She says once the service reviews for the East Valley are finished, reviews for the North Desert area will be initiated.

Discussion follows regarding the CALAFCO Executive Board meetings, with Clark Alsop stating that they are held quarterly, alternating between Northern and Southern California. He says they usually begin at 10 a.m. and end at 2 p.m., to allow those attending to fly in to the meeting and back. He announces that the CALAFCO Executive Director Scott Harvey is leaving to take a position with the State and says CALAFCO is recruiting for a new Executive Director.

Chairman Bagley discusses that this Commission has always had a strong presence on the CALAFCO Board, with Jim Roddy and Clark Alsop's involvement. He says that is appropriate since this Commission is often on the cutting edge of things that happen.

COMMISSIONER COMMENTS

Chairman Bagley welcomes Ms. McDonald's sons and mother to the hearing today.

Commissioner Sedano says today's meeting was very good and that they have not had a dialogue such as the one they had earlier on a proposal in quite a while. He says he likes it when there is a split vote every now and then. He says this is a great Commission and that he is thrilled to be a part of it.

COMMENTS FROM THE PUBLIC

Chairman Bagley calls for comments from the public. There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE HEARING IS
ADJOURNED AT 10:45 A.M. TO THE HILTON HOTEL RESTAURANT FOR A LUNCH IN HONOR OF
MS. MCDONALD**

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ATTEST:

DEBBY CHAMBERLIN
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JIM BAGLEY, Chairman